



**UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY**

South Tower – Suite 1950
225 Peachtree Street
Atlanta, GA 30303

October 24, 2014

Donald R. McCoy, P.A.
111 S.E. 12th Street
Fort Lauderdale, FL 33316-1813
mccoyesquire@mac.com

TRANSMITTED BY E-MAIL and REGULAR MAIL

Re: Freedom of Information Act Request
Case Nos. AT-CA-14-0304, AT-CA-14-0305 and AT-Ca-14-0306

Dear Mr. McCoy:

This responds to your request dated October 8, 2014 and received on October 14, 2014, whereby you requested certain information under the Freedom of Information Act (the FOIA), 5 U.S.C. § 552, as amended. Specifically, you have requested (1) "records pertaining to unfair labor practice charges filed by or on behalf of American Federation of Government Employees, Local 558 against the United States Department of Homeland Security and/or the Transportation Security Administration;" (2) "records pertaining to FLRA Case Nos. AT-CA-14-0304, AT-CA-14-0305, and AT-CA-14-0306;" and (3) "other records containing or referring to allegations that the United States Department of Homeland Security, the Transportation Security Administration or any official of these agencies violated a collective bargaining agreement provision incorporating the Family and Medical Leave Act.""

A search of our records reveals no charges filed by or on behalf of Local 558 other than the three above-captioned cases that are referenced in item 2 of your request. Nor were any records found that are responsive to item 3 of your request.

Based upon your request, the following documents may be disclosed under the Freedom of Information Act (the FOIA), 5 U.S.C. § 552, as amended, and copies of the documents are attached to this letter. The documents, attached in three separate pdf files, are described as follows:

- Opening letter in Case No. AT-CA-14-0304 dated May 6, 2014 (two pages)
- Unfair Labor Practice Charge in Case No. AT-CA-14-0304 and Certification of Service

(two pages)

- Designation of Representative Form in Case No. AT-CA-14-0304 (one page)
 - ULP data entry form in Case No. AT-CA-14-0304 (one page)
 - Withdrawal Approval letter for Case Nos. AT-CA-14-0304, AT-CA-14-0305 and AT-CA-14-0306 dated August 27, 2014 (one page)
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- Opening letter in Case No. AT-CA-14-0305 (two pages)
 - Unfair Labor Practice Charge in Case No. AT-CA-14-0305 (one page)
 - Designation of Representative Form in Case No. AT-CA-14-0305 (one page)
 - ULP data entry form in Case No. AT-CA-14-0305 (one page)
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- Opening Letter in Case No. AT-CA-14-0306 (two pages)
 - Unfair Labor Practice Charge in Case No. AT-CA-14-0306 (one page)
 - Designation of Representative Form in Case No. AT-CA-0306 (one page)
 - ULP data entry form in Case No. AT-CA-14-0306 (one page)

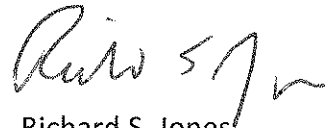
There are no charges associated with granting the request. 5 C.F.R. § 2411.13(b).

The case files also contain affidavits, intra-office memoranda, investigative reports and communications between the investigator and the parties individually. However, your request is denied with respect to those documents because such documents are protected from disclosure by Exemptions 5 and 7(C) and (D) of the FOIA. Exemption 5 protects from disclosure intra-agency documents that are not available by law to a party in litigation with the agency, i.e., documents that are prepared during a pre-decisional deliberative process, and documents that represent an attorney's work product. The deliberative process privilege applies to documents that are (1) predecisional, *Mapother v. Dep't of Justice*, 3 F.3d 1533, 1537 (D.C. Cir. 1993) and (2) deliberative. *Jordan v. Dep't of Justice*, 591 F.2d 753, 774 (D.C. Cir. 1978). These types of materials are exempt under Exemptions 5 and 7(C) and (D) of the FOIA in order to assure that internal deliberations are carried out in the candid manner necessary to effective decision-making. *NLRB v. Sears, Roebuck and Co.*, 421 U.S. 132, 150 (1975). Thus, to the extent that these documents relate to deliberations, their disclosure is not required as disclosure would be destructive to the Regional Director's adjudicative responsibility and integrity.

Exemption 7(C) protects from disclosure information that is personal that has been compiled for law enforcement the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." *McDonnell v. United States*, 4 F.3d 1227, 1255-56 (3d Cir. 1993) (*McDonnell*). Exemption 7(D) protects from disclosure records or information compiled for law enforcement purposes that could reasonably be expected to identify a confidential source. *McDonnell* at 1258.

I am responsible for this determination on your request. Under § 2411.10(a) of the Rules and Regulations of the Authority, you may obtain a review of this determination by filing a written appeal of my determination within thirty (30) days after receipt of this response. You should file the appeal with the Office of the General Counsel, 1400 K Street NW, Second Floor, Washington, D.C. 20424-0001.

Sincerely,

A handwritten signature in black ink, appearing to read "Rich S Jones", with a stylized flourish at the end.

Richard S. Jones
Regional Director

Enclosures

cc: Richard Zorn
FOIA Officer for the General Counsel
Federal Labor Relations Authority
1400 K Street NW, Second Floor
Washington, D.C. 20424-0001